

ORDINANCE NO. 12-15

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO ENTER INTO AN EQUIPMENT TERM LOAN AGREEMENT WITH BANK OF AMERICA, N.A. OR ONE OF ITS AFFILIATES, PROVIDING FOR A LOAN FROM BANK OF AMERICA, N.A. OR ONE OF ITS AFFILIATES TO THE CITY IN AN AMOUNT NOT TO EXCEED \$1,850,000 TO REFINANCE EXISTING FINANCED PURCHASES OF TWO E-ONE PUMPERS AND RECYCLING CONTAINERS, IN A FORM ACCEPTABLE TO THE CITY ATTORNEY, PROVIDING FOR THE SALE AND ISSUANCE OF THE CITY'S PROMISSORY NOTE, SERIES 2012A, IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$1,850,000 IN SUBSTANTIALLY THE FORM ATTACHED TO SAID LOAN AGREEMENT; AWARDING SUCH NOTE TO BANK OF AMERICA, N.A OR ONE OF ITS AFFILIATES. BY NEGOTIATED SALE; DESIGNATING SUCH NOTE AS "CITY OF HIALEAH PROMISSORY NOTE, SERIES 2012A"; PROVIDING A COVENANT TO BUDGET AND APPROPRIATE THE CITY'S LEGALLY AVAILABLE NON AD VALOREM REVENUES, AS SECURITY FOR THE REPAYMENT OF THE NOTE AND INTEREST THEREON; DELEGATING TO THE MAYOR THE AUTHORITY TO FINALIZE THE TERMS AND CONDITIONS OF THE NOTE INCLUDING, WITHOUT LIMITATION, THE MATURITY DATE, PRINCIPAL AMOUNT AND INTEREST RATE THEREON; AUTHORIZING THE EXPENDITURE OF NOT TO EXCEED \$4,000 FOR BANK ATTORNEY'S FEES; AND FURTHER AUTHORIZING THE EXECUTION OF ANY AND ALL DOCUMENTS IN FURTHERANCE THEREWITH; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION

HEREOF; PROVIDING FOR A SEVERABILITY
CLAUSE; AND PROVIDING FOR AN
EFFECTIVE DATE.

WHEREAS, the City of Hialeah desires to term equipment financing to enable the City to refinance at a financial savings three existing financed equipment purchases for two E-One pumpers and recycling containers.

WHEREAS, Bank of America, N.A. has offered to provide the City a term equipment term loan for such refinancing; and

WHEREAS, the City Council finds that this ordinance is in the best interest of the City and its residents and the proper administration of its government.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to enter into an Equipment Term Loan Agreement with Bank of America, N.A. or one of its affiliates (the "Loan Agreement"), providing for a loan from Bank of America, N.A. or one of its affiliates to the City in an amount not to exceed \$1,850,000 to refinance existing financed purchases of two E-One pumpers and recycling containers, in a form acceptable to the City Attorney, and providing for the negotiated sale and issuance of a note to Bank of America, N.A. or one of its affiliates, in a principal amount not to exceed \$1,850,000, to evidence the loan.

Section 3: The City of Hialeah, Florida hereby awards its Promissory Note to Bank of America, N.A or one of its affiliates.; designates said Note as "City of Hialeah, Promissory Note, Series 2012A" (the "Note") and further provides a covenant to budget and appropriate funds from legally available non ad valorem revenues, as more

particularly set forth in the Loan Agreement, as security for the payment of the Note, as necessary to timely pay the Note and interest thereon and delegates to the Mayor the authority to finalize the terms and conditions of the Note, including, without limitation, the maturity date, principal amount and interest rate thereon, and authorizes the execution of any and all documents in furtherance therewith. Because of the nature of the Note, the maturity of the Note and the prevailing market conditions, the negotiated sale of the Note to Bank of America, N.A. or one of its affiliates in substantial accordance with Bank of America, N.A.'s proposal to the City, is hereby found to be in the best interests of the City; provided, however, that the provisions of this Ordinance and of the Loan Agreement and Note shall control to the extent of any conflict with such proposal.

Section 4: The City of Hialeah, Florida authorizes the payment of reasonable bank attorney's fees, not to exceed \$4,000.

Section 5: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 7: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 8: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

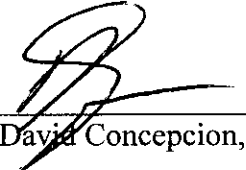
PASSED and ADOPTED this 27th day of March, 2012.

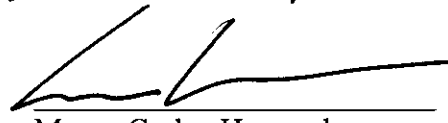
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Isis Garcia-Martinez
Council President

Attest:

Approved on this 28 day of March, 2012.

David Concepcion, City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".